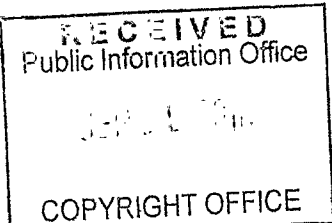


Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)

)
Distribution of the 2004, 2005, 2006, 2007,)
2008 and 2009 Cable Royalty Funds)

Docket No. 2012-6 CRB CD 2004-2009
(Phase II)



In the Matter of)

)
Distribution of the 1999-2009 Satellite)
Royalty Funds)

Docket No. 2012-7 CRB SD 1999-2009
(Phase II)

SEP 22 2015

Copyright Royalty Board

**SETTLING DEVOTIONAL CLAIMANTS' OPPOSITION TO INDEPENDENT
PRODUCERS GROUP'S MOTION TO STRIKE THE DECLARATION OF ERKAN
ERDEM FILED WITH THE SDC'S REPLY IN SUPPORT OF THEIR MOTION TO
STRIKE IPG'S AMENDED DIRECT STATEMENT**

The Settling Devotional Claimants ("SDC") oppose IPG's motion to strike the Declaration of Erkan Erdem that was filed with the SDC's reply in support of their motion to strike IPG's Amended Direct Statement.

Dr. Erdem's declaration responds specifically to assertions raised in IPG's opposition to the SDC's motion to strike (some of which were also raised for the first time in IPG's opposition to MPAA's motion to strike, which was filed after the SDC filed their motion to strike) and in Dr. Cowan's supporting declaration, including:

- Dr. Cowan's testimony that what he submitted "was not a 'new methodology', and the revised allocation share proposals are the results of a correction to the data" Cowan Declaration at ¶ 3. Dr. Cowan did not identify what "correction to the data" was allegedly made.

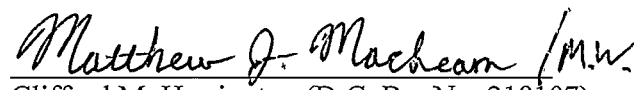
- Dr. Cowan’s testimony that “[t]he regression method I used in the later calculations is exactly the same.” *Id.* at ¶ 5. It was not the same. IPG has now (belatedly) produced calculations underlying Dr. Cowan’s initial results and some of Dr. Cowan’s results in his Amended Direct Statements. Those calculations show, as Dr. Cowan’s initial and amended statements also show, that he changed the calculation from a level-level to a log-level model.
- Dr. Cowan’s testimony that “scaling [i.e., on a logarithmic scale versus a natural scale] merely reflects how the data is viewed by the regression, i.e., how the data is counted then applied -- in absolute terms or in proportional terms.” *Id.* at ¶ 9. This statement is technically true but hopelessly misleading, to the extent that it implies that a level-level regression and a log-level regression are functionally identical. Dr. Erdem’s declaration was necessary to correct misperceptions about the difference between the two regression models that Dr. Cowan’s declaration might have engendered.
- Dr. Cowan’s accurate but misleading quote from Mathematical Analysis for Economists that “equal distances between points on a natural scale indicate absolute changes in the variables, and equal distances between points on a logarithmic scale indicate proportional changes in the variable.” *Id.* This statement is also technically true, but requires context provided by Dr. Erdem’s declaration to understand that regressions on a natural scale and a logarithmic scale are functionally different, embody different assumptions, and lead to different results.
- Dr. Cowan’s own question to himself, “why were there changes to the allocations and the data,” which he answers only by reference to an inquiry from IPG’s counsel about his initial results. *Id.* at ¶ 11.

- IPG's patently false statement in its opposition that Dr. Cowan's initial statement "erringly omitted a parentheses ['()'] that otherwise appeared in a mathematical calculation" (Opposition at 7). The reason for the addition of the parentheses was to allow the addition of a new term to the equation, "*exp*," to make the equation exponential as a step in transitioning from a level-linear to a log-linear regression model.

The SDC could not have responded to these points before IPG made them. They certainly could not have predicted that Dr. Cowan would attempt to obfuscate the difference between level-level and log-level regression models. It was proper for the SDC and Dr. Erdem to respond to those points, and the SDC's reply was their first opportunity to do so.

The SDC also oppose IPG's motion for leave to file yet another responsive brief and supporting declaration. Our curiosity as to what Dr. Cowan could possibly have to say for himself is outweighed by our eagerness to bring this dispute to a conclusion. IPG has now had five opportunities to explain the reasons for the changes in its Amended Direct Statement: (1) the Amended Direct Statement itself; (2) IPG's opposition to the SDC's motion for distribution; (3) IPG's response to the Judges' Order to Show Cause; (4) IPG's opposition to MPAA's motion to strike IPG's Amended Direct Statement; and (5) IPG's opposition to the SDC's motion to strike its Amended Direct Statement. It has failed to offer any explanation beyond a generic claim of "corrections." There is no need for a sixth chance.

Respectfully submitted,


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September 29, 2016

CERTIFICATE OF SERVICE

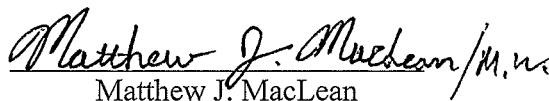
I, Matthew J. MacLean, hereby certify that a copy of the foregoing was sent electronically and by overnight mail this 29th day of September, 2016, to the following:

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